



18334 U.S. PTO

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October 2, 2003

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Patent Application
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Re: New U.S. Non-Provisional Patent Application
Applicant(s): Mehboob HUSSAIN
Title: ADULT BONE MARROW DERIVED STEM CELLS
Atty's Docket: HUSSAIN=1A

Sir:

Attached herewith is the above-identified application for Letters Patent including:

- ☒ Specification (32 pages), claims (2 pages), abstract (1 page) and sequence listing (5 pages)
- ☒ 5 Sheets Drawings (Figures 1A-7D)
- ☒ **FORMAL** ☐ Informal
- ☒ The inventor of this application is:

Mehboob HUSSAN, 120 Central park South, Apt. 3E, New York, New York 10019
- ☒ Information Disclosure Statement with SB/08A and 4 references
- ☒ Return Receipt Postcard (in duplicate)
- ☒ Preliminary Communication
- ☒ Sequence Listing Disk (CRF)

The following statements are applicable:

- ☐ Applicant hereby requests that this application **not** be published pursuant to 35 U.S.C. §122(a). It is certified on behalf of applicant that the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.
- ☒ Applicant claims small entity status. See 37 C.F.R. §1.27.
- ☐ The benefit under 35 USC §119 is claimed of the filing date of:
Application No. _____ in _____ on _____. A certified copy of said priority document ☐ is attached ☐ was filed in progenitor case _____ on _____.
Application No. _____ in _____ on _____. A certified copy of said priority document ☐ is attached ☐ was filed in progenitor case _____ on _____.

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10/676261



10/02/03

In re of new application: ,

- [X] The present application claims the benefit of U.S. Provisional Appln. No. 60/415,091, filed October 2, 2002.
- [] The present application is a [] Continuation [] Division [] Continuation-in-Part of prior Application No. _____, filed _____. Although this application is stated to be a CIP, applicant does not concede that any matter is presented in this application which is not present in the parent.
- [] Amend the specification by inserting before the first line the sentence:
- [] --This is a continuation / division / continuation-in-part of copending parent application No. _____, filed _____--
- [] --The present application claims the benefit of U.S. Provisional Appln. No. 60/_____, filed _____--
- [] --The present application is the national stage under 35 U.S.C. §371 of international application _____ which designated the United States[, which international application was published under PCT Article 21(2) in English].--
- [X] The application is (or will be) assigned to: New York University, whose address is 70 Washington Square, New York, New York 10012
- [] Certain documents were previously cited or submitted to the Patent and Trademark Office in the following prior application _____, which is relied upon under 35 USC §120. Applicants identify these documents by attaching hereto a form PTO-1449 listing these documents, and request that they be considered and made of record in accordance with 37 CFR §1.98(d). Per Section 1.98(d), copies of these documents need not be filed in this application.
- [] Incorporation By Reference. The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied herewith, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- [X] In accordance with 37 CFR 1.53(a) and (b), it is respectfully requested that a serial number and filing date be assigned to this application as of the date of receipt of the present papers. In accordance with the present procedures of the U.S. Patent and Trademark Office, an executed Declaration and the filing fee for the present application will be filed in due course.
- [X] **No authorization is given for charging the filing fee at the present time. However, at such time that the declaration is filed, but not before, you are authorized to charge whatever excess fees are necessary (including the filing fee and any extension of time fees then due) to Deposit Account 02-4035, if any such fees due are not fully covered by check filed at that time.**
- [X] The attorneys of record for this application and the address will be those of **Customer No. 001444**; i.e., Sheridan Neimark, Reg. No. 20,520; Roger L. Browdy, Reg. No. 25,618; Anne M. Kornbau, Reg. No. 25,884; Norman J. Latker, Reg. 19,963; Iver P. Cooper, Reg. No. 28,005; Jay M. Finkelstein, Reg. No. 21,082; and *Allen C. Yun, Reg. No. 37,971 (*Patent Agent). Please send all correspondence with respect to this case to:

**BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, D.C. 20001**

Please direct all telephone calls to Browdy and Neimark at (202) 628-5197.

In re of new application:

- ☒ The Commissioner is hereby authorized to credit any overpayment of fees accompanying this paper to Deposit Account No. 02-4035.

Respectfully submitted,
BROWDY AND NEIMARK, P.L.L.C.

By: _____

Allen C. Yun

Registration No. 37,971

:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Mehboob HUSSAIN)	Examiner:
)	
Appln. No.: not yet received)	
)	Washington, D.C.
)	
Filed: on even date herewith)	October 2, 2003
)	
For: ADULT BONE MARROW DERIVIED)	Atty.Docket: HUSSAIN=1A
STEM CELLS)	

PRELIMINARY COMMUNICATION

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Patent Application**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

The present application as filed includes a paper and computer readable copy of a sequence listing.

I hereby state, in accordance with 37 C.F.R. §1.821(f), that the content of the computer readable copy of the sequence listing is believed to be the same as the paper copy sequence listing which is part of the application as filed.

Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

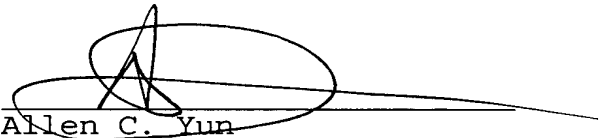
Applicants submit that the present application contains patentable subject matter and therefore urge the examiner to pass the case to issuance.

If the examiner has any questions or comments concerning the above-described application, the examiner is urged to contact the undersigned at the phone number below.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By

A handwritten signature in black ink, appearing to be "Allen C. Yun", written over a horizontal line.

Registration No. 37,971

ACY:pp
Telephone No.: (202) 628-5197
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